



## **DEPARTMENT OF THE TREASURY**

### **Financial Crimes Enforcement Network**

#### **31 CFR Part 1010**

#### **Financial Crimes Enforcement Network; Inflation Adjustment of Civil Monetary Penalties**

**AGENCY:** Financial Crimes Enforcement Network (FinCEN), Treasury.

**ACTION:** Final rule.

**SUMMARY:** FinCEN is publishing this final rule to reflect inflation adjustments to its civil monetary penalties as mandated by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended. This rule adjusts certain maximum civil monetary penalties within the jurisdiction of FinCEN to the amounts required by that Act.

**DATES:** Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** The FinCEN Regulatory Support Section at 1-800-767-2825, or electronically at [frc@fincen.gov](mailto:frc@fincen.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

In order to improve the effectiveness of civil monetary penalties (CMPs) and to maintain their deterrent effect, the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended in 2015 by section 701 of Public Law 114-74, codified at 28 U.S.C. 2461 note (the Act), requires Federal agencies to adjust for inflation each CMP provided by law within the jurisdiction of the agency. The Act requires agencies to adjust the level of CMPs with an initial “catch-up” adjustment through an interim final rulemaking. After the initial “catch-up” adjustment, agencies are required to adjust CMPs annually and to make the adjustments notwithstanding 5 U.S.C. 553, which requires notice-and-comment rulemaking for certain agency actions. The Act provides that any increase in a

CMP shall apply to CMPs that are assessed after the date the increase takes effect, regardless of whether the underlying violation predated such increase.<sup>1</sup>

## **II. Method of Calculation**

The method of calculating CMP adjustments applied in this final rule is required by the Act. Under the Act and Office of Management and Budget (OMB) guidance, annual inflation adjustments subsequent to the initial catch-up adjustment are to be based on the percent change between the Consumer Price Index for all Urban Consumers (CPI-U) for the October preceding the date of the adjustment and the prior year's October CPI-U. As set forth in OMB Memorandum M-23-05 of December 15, 2022, the adjustment multiplier for 2023 is 1.07745. In order to complete the 2023 annual adjustment, each current CMP (all of which were themselves last adjusted in 2022) is multiplied by the 2023 adjustment multiplier. Under the Act, any increase in CMP must be rounded to the nearest multiple of \$1.<sup>2</sup>

### *Procedural Matters*

#### **1. Administrative Procedure Act**

Section 4(b) of the Act requires agencies, beginning in 2017, to make annual adjustments for inflation to CMPs notwithstanding the notice and comment requirements of 5 U.S.C. 553. Additionally, the methodology used for adjusting CMPs for inflation, effective 2017, is provided by statute, with no discretion provided to agencies regarding the substance of the adjustments for inflation to CMPs. Accordingly, prior public notice

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<sup>1</sup> The increased CMPs, however, apply only with respect to underlying violations occurring after November 2, 2015 the date of enactment of the most recent amendment to the Act.

<sup>2</sup> FinCEN has previously described that it applied a catch-up adjustment for each penalty subject to the Act, based on the year and corresponding amount(s) for which the maximum penalty or range of minimum and maximum penalties was established or last adjusted, whichever is later. *See* Civil Monetary Penalty Adjustment and Table, 81 FR 42503, 42504 (June 30, 2016). Because the year varies for different penalties, penalties that were originally of the same size when promulgated can have different values today pursuant to the application of the Act.

and an opportunity for public comment and a delayed effective date are not required for this rule.

## 2. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

## 3. Executive Order 12866.

This rule is not a significant regulatory action as defined in section 3(f) of Executive Order 12866.

## 4. Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Pub. L. 104-13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this rule because there are no new or revised recordkeeping or reporting requirements.

### **List of Subjects in 31 CFR Part 1010**

Authority delegations (Government agencies), Administrative practice and procedure, Banks, banking, Brokers, Currency, Foreign banking, Foreign currencies, Gambling, Investigations, Penalties, Reporting and recordkeeping requirements, Securities, Terrorism.

### **Authority and Issuance**

For the reasons set forth in the preamble, part 1010 of chapter X of title 31 of the Code of Federal Regulations is amended as follows:

### **PART 1010 – GENERAL PROVISIONS**

#### 1. The authority citation for part 1010 continues to read as follows:

**Authority:** 12 U.S.C. 1829b and 1951-1959; 31 U.S.C. 5311-5314 and 5316-5336; title III, sec. 314, Pub. L. 107-56, 115 Stat. 307; sec. 2006, Pub. L. 114-41, 129 Stat. 458-459; sec. 701, Pub. L. 114-74, 129 Stat. 599.

2. Amend §1010.821 by revising table 1 following paragraph (b) to read as follows:

**§ 1010.821 Penalty adjustment and table.**

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(b) \* \* \*

**Table 1 of § 1010.821 – Penalty Adjustment Table**

U.S. Code Citation	Civil Monetary Penalty Description	Penalties as Last Amended by Statute	Maximum Penalty Amounts or Range of Minimum and Maximum Penalty Amounts for Penalties Assessed On or After [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]
12 U.S.C. 1829b(j).	Relating to Recordkeeping Violations For Funds Transfers.	\$10,000	\$24,793
12 U.S.C. 1955.	Willful or Grossly Negligent Recordkeeping Violations	\$10,000	\$24,793
31 U.S.C. 5318(k)(3)(C).	Failure to Terminate Correspondent Relationship with Foreign Bank.	\$10,000	\$16,771
31 U.S.C. 5321(a)(1).	General Civil Penalty Provision for Willful Violations of Bank Secrecy Act Requirements.	\$25,000 - \$100,000	\$67,544 - \$270,180
31 U.S.C. 5321(a)(5)(B)(i).	Foreign Financial Agency Transaction – Non-Willful Violation of Transaction.	\$10,000	\$15,611
31 U.S.C. 5321(a)(5)(C)(i)(I) .	Foreign Financial Agency Transaction – Willful Violation of Transaction	\$100,000	\$156,107
31 U.S.C. 5321(a)(6)(A).	Negligent Violation by Financial Institution or Non-Financial Trade or Business.	\$500	\$1,350
31 U.S.C. 5321(a)(6)(B).	Pattern of Negligent Activity by Financial Institution or Non-Financial Trade or Business.	\$50,000	\$105,083
31 U.S.C. 5321(a)(7).	Violation of Certain Due Diligence Requirements, Prohibition on Correspondent Accounts for Shell Banks, and Special Measures.	\$1,000,000	\$1,677,030

31 U.S.C. 5330(e).	Civil Penalty for Failure to Register as Money Transmitting Business.	\$5,000	\$9,966
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**Himamauli Das,**  
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